

AN ORDINANCE REPEALING
AND REPLACING CHAPTER 31,
SECTION 31.03 RESIDENCE
REQUIREMENTS OF THE CITY
OF FORT WAYNE CODE OF
ORDINANCES.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Chapter 31, Section 31.03 of the
City of Fort Wayne Code of Ordinances is hereby repealed
and is replaced with a new Section 31.03 which reads as
follows:

31.03 RESIDENCE REQUIREMENTS.

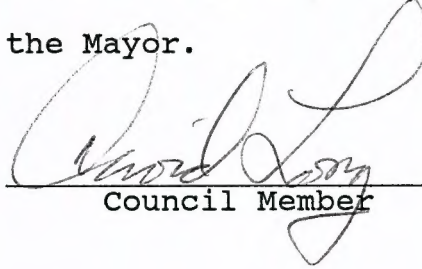
(A) All appointive officers and all employees of
the various departments of the City, except as to those
City employees whose residency requirements are
established expressly by Indiana State Law, who accept
permanent, full-time employment or permanent part-time
employment after April 1, 1989, must have their principal
place of residence within Allen County, Indiana.

(B) Employees and appointive officers whose
residency requirements are not established by Indiana
State Law and who were first appointed prior to April 1,
1989, but who have had a break in service with the City
and are reappointed or reemployed after April 1, 1989,
must also have their principal place of residence in
Allen County.

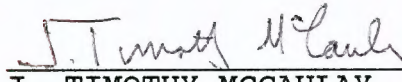
(C) Employees and appointive officers first
appointed prior to April 1, 1989, and who have had no
break in service with the City, are not subject to any
residency requirements other than those established by
Indiana State Law.

PAGE 2

SECTION 2. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor.


Council Member

APPROVED AS TO FORM
AND LEGALITY


J. TIMOTHY MCCAULAY, CITY ATTORNEY

Read the first time in full and on motion by Rapine, seconded by _____, and duly adopted, read the second time by title and referred to the Committee on Regulations (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City-County Building, Fort Wayne, Indiana, on _____, the _____ day of _____, 19_____, at _____ o'clock _____ M., E.S.T.

DATED: 3-5-93

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK
W. Edgar Eckhoff, Deputy Clerk

Read the third time in full and on motion by _____, seconded by _____, and duly adopted, placed on its passage.
PASSED LOST by the following vote:

	<u>AYES</u>	<u>NAYS</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
<u>TOTAL VOTES</u>	_____	_____	_____	_____
<u>BRADBURY</u>	_____	_____	_____	_____
<u>EDMONDS</u>	_____	_____	_____	_____
<u>GiaQUINTA</u>	_____	_____	_____	_____
<u>HENRY</u>	_____	_____	_____	_____
<u>LONG</u>	_____	_____	_____	_____
<u>LUNSEY</u>	_____	_____	_____	_____
<u>RAVINE</u>	_____	_____	_____	_____
<u>SCHMIDT</u>	_____	_____	_____	_____
<u>TALARICO</u>	_____	_____	_____	_____

DATED: _____

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as (ANNEXATION) (APPROPRIATION) (GENERAL) (SPECIAL) (ZONING) ORDINANCE RESOLUTION NO. _____ on the _____ day of _____, 19_____,

ATTEST: (SEAL)

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the _____ day of _____, 19_____, at the hour of _____ o'clock _____ M., E.S.T.

Sandra E. Kennedy
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this _____ day of _____, 19_____, at the hour of _____ o'clock _____ M., E.S.T.

Paul Helmke
PAUL HELMKE, MAYOR



THE CITY OF FORT WAYNE



Paul Helmke
Mayor

MEMORANDUM

LAW DEPARTMENT

TO: MEMBERS OF CITY COUNCIL

FROM: J. TIMOTHY MCCAULAY, CORPORATION COUNSEL

DATE: March 8, 1993

SUBJECT: MODIFICATION FOR RESIDENCY REQUIREMENT ORDINANCE

93-03-08

In April 1989, City Council passed an ordinance that required all "new hires" after April 1, 1989, must have a principal place of residence in Allen County, Indiana, unless the employee's position had residency requirements established by state law. A strict reading of the provisions of the ordinance suggests it had no application to people who were employed prior to April 1, 1989, even if they moved out of the County after April 1, 1989.

Thus, the Law Department has interpreted the ordinance as not preventing people employed prior to April 1, 1989, from moving out of the County if state law allows. The Equal Protection Clause of the 14th Amendment requires that people similarly situated be similarly treated. Thus, it is my opinion that people employed prior to April 1, 1989, constitute a "single" class and therefore it would be discriminatory to prohibit anybody in such class to move out of the County. After all, at the time of their hire, there was no local residency requirement. On the other hand, people hired after April 1, 1989, form a second class and each member of that class was on notice concerning the local residency requirement. Therefore, there is no equal protection concern with enforcing the ordinance or this group of employees.

Had
Withdrawn
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DAVID C. LONG & REBECCA J. RAVINE - CO-CHAIRPERSONS
LUNSEY, SCHMIDT

REFERRED AN (ORDINANCE) (~~RESOLUTION~~) REPEALING AND
REPLACING CHAPTER 31, SECTION 31.03 RESIDENCE REQUIREMENTS OF
THE CITY OF FORT WAYNE CODE OF ORDINANCES

[illegible]

Sandra E. Kennedy
City Clerk